UNITED STATES COURT OF APPEALS
FOR THE SECOND CIRCUIT

THIS SUMMARY ORDER WILL NOT BE PUBLISHED IN THE FEDERAL REPORTER AND MAY NOT BE CITED AS PRECEDENTIAL AUTHORITY TO THIS OR ANY OTHER COURT, BUT MAY BE CALLED TO THE ATTENTION OF THIS OR ANY OTHER COURT IN A SUBSEQUENT STAGE OF THIS CASE, IN A RELATED CASE, OR IN ANY CASE FOR PURPOSES OF COLLATERAL ESTOPPEL OR RES JUDICATA.

At a stated term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse, Foley Square, in the City of New York, on the 23rd day of December December, one thousand nine hundred and ninety-eight.

PRESENT:

HON. THOMAS J. MESKILL,
HON. GUIDO CALABRESI,
Circuit Judges,

HON. MILTON POLLACK,
District Judge.[*]

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[*]The Honorable Milton Pollack, District Judge of the United States District Court for the Southern District of New York, sitting by designation.

UNITED STATES OF AMERICA,
Appellee,

v.

SUMMARY ORDER
98-1291
98-1292

ANTHONY ALEXANDER BLAREK II and FRANK V. PELLECCHIA,
Defendants-Appellants,

Appearing for Appellants:	GERARD E. LYNCH, Howard, Smith & Levin, New York, NY
Appearing for Appellee:	MARK W. LERNER & RICHARD WEBER, Assistant United States Attorneys, Eastern District of New York, Brooklyn, NY

Appeal from the United States District Court for the Eastern District of New York (Jack B. Weinstein, *Judge*).

UPON DUE CONSIDERATION, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that the judgment of the District Court be and it hereby is AFFIRMED.

Anthony Blarek II and Frank Pellecchia appeal from judgments entered on May 21, 1998, in the United States District Court for the Eastern District of New York (Weinstein, *J.*), which convicted them of RICO conspiracy in violation of 18 U.S.C. § 1962(d) and money laundering conspiracy in violation of 18 U.S.C. §§ 371 and 1956(h). Blarek also appeals from his

separate conviction for distributing the proceeds of a narcotics enterprise in violation of the Travel Act, 18 U.S.C. § 1952(a)(1).

I

Blarek and Pellecchia were interior designers and decorators. On a trip to Colombia in 1979, Blarek met Jose Santacruz, who controlled a large faction of the Cali cocaine cartel. Following their meeting, Santacruz hired Blarek to decorate his new home, and Blarek noted in his daily planner that he had "[m]ade the Colombian connection." Blarek claims that, at the time, he believed Santacruz was a legitimate businessman. In 1981, however, Blarek was questioned by DEA agents who informed him that Santacruz was a drug dealer.

Pellecchia became Blarek's business partner, and by 1985 the two designers worked exclusively for Santacruz. Over a period of several years, Blarek and Pellecchia purchased expensive objects such as art and furniture for Santacruz's office and numerous homes. The money for these purchases was given to the designers in large amounts of cash either wired from foreign bank accounts or delivered in duffel bags by anonymous couriers. The funds provided to Blarek and Pellecchia totaled several million dollars over the course of their relationship with Santacruz. The money spent by the designers came from drug proceeds.

Whenever Blarek and Pellecchia purchased items for Santacruz, they concealed the identity of their patron from vendors. The designers' accountant, Robert Rachlin, testified that in 1986 Blarek and Pellecchia told him "they had cash amounts, they wanted to conceal the fact that it was cash. They didn't want a money trail." Rachlin proceeded to convert Santacruz's cash into checks for the designers. Moreover, Blarek concedes that he filed false passport reports with the State Department and altered another passport in order to hide the

number of trips he had taken to Columbia. And, upon hearing of Santacruz's death in a shootout in 1996, a government informant recorded Blarek's musings about how the designers should go about covering up their links to the drug lord.

Blarek and Pellecchia were arrested in 1997, and safe deposit boxes in their names were found to contain over $750,000 in cash. Blarek admits that he lied to investigators on the day of his arrest, telling them that he never worked for Santacruz after he found out in 1991 that Santacruz was a drug lord, that there was no cash in the safe deposit boxes, and that he didn't remember whether he had ever received cash payments from Santacruz for his services.

The designers were indicted for substantive RICO in violation of 18 U.S.C. § 1962(c), RICO conspiracy in violation of 18 U.S.C. § 1962(d), and money laundering conspiracy in violation of 18 U.S.C. §§ 371 and 1956(h). Blarek was also charged separately with violating the Travel Act, 18 U.S.C. § 1952(a)(1). Blarek and Pellecchia's defense at trial was that they merely aided Santacruz in his personal consumption of lavish art and furnishings, and provided services no different from those that would be offered by any other interior decorators. Over defendants' objection, evidence was admitted of false statements they had made on their tax returns, underreporting improvements made on their home in an amount equal to the portion of the improvements that had been paid with Santacruz's cash. The jury acquitted Blarek and Pellecchia on the substantive RICO count, but convicted them for RICO conspiracy and money laundering conspiracy. It also convicted Blarek of violating the Travel Act.

II

Appellants' first claim is that the evidence was insufficient to support their RICO conspiracy conviction, and

that the spillover effect of the RICO conspiracy charge warrants the reversal of their other convictions.

"A defendant challenging the sufficiency of the evidence bears a heavy burden. We determine on review only if, viewed in the light most favorable to the government, there is substantial evidence to support the jury's findings." *United States v. Rastelli*, 870 F.2d 822, 827 (2d Cir. 1989) (citations omitted). "Furthermore, all issues of credibility must be considered to lie solely within the jury's province, and all reasonable inferences must be drawn in the government's favor." *Id.*

"A [RICO] conspirator must intend to further an endeavor which, if completed, would satisfy all of the elements of a substantive [RICO] offense, but it suffices that he adopt the goal of furthering or facilitating the criminal endeavor." *Salinas v. United States*, ___ U.S. ___, 118 S. Ct. 469, 477 (1997). The Appellants' position, both at trial and on appeal, is that they did not conspire with Santacruz but instead merely assisted him with his personal consumption. We disagree. There is considerable evidence in the record to show that the Appellants knew Santacruz was a drug dealer and that the money they were spending for him was drug money. Moreover, the size and manner of the cash transfers to Blarek and Pellecchia, not to mention the surreptitious conduct of the designers concerning their transactions with Santacruz, could all amply support the inference that the Appellants conspired with Santacruz to aid his enterprise's drug business through money laundering.

The Appellants emphasize that there are innocent explanations for most of the incriminating facts against them. For example, Blarek and Pellecchia argue that most interior decorators conceal the identity of their wealthy clients, and most transactions with such clients are conducted in cash. These arguments may be valid, but they were fully presented to the jury and necessarily rejected by the guilty verdict on the RICO

conspiracy charge. Furthermore, the jury evidently understood the defendants' theory of the case, since Blarek and Pellecchia were both acquitted of the more serious charge of substantive RICO. We will not second-guess the jury's guilty verdict on RICO conspiracy, and we therefore reject the sufficiency of the evidence claim as meritless.[1]

Appellants' second claim is that the federal money laundering statute, 18 U.S.C. § 1957(a) (1994), is unconstitutionally vague as applied to them and therefore cannot serve as a predicate act for their RICO conspiracy conviction. Section 1957(a) states, in pertinent part: "Whoever . . . knowingly engages or attempts to engage in a monetary transaction in criminally derived property that is of a value greater than $10,000 and is derived from specified unlawful activity[] shall be punished." Blarek and Pellecchia contend that the phrase "criminally derived property" is so broad that it failed to provide them with adequate notice.

It is, of course, settled law that "a challenger who engages in some conduct that is clearly proscribed . . . cannot complain of the vagueness of the law as applied to the conduct of others." *United States v. Amer*, 110 F.3d 873, 878 (2d Cir.), *cert. denied* 118 S. Ct. 258 (1997) (internal quotation marks and citations omitted). And even if a phrase in a statute might be vague as applied to extreme situations, that fact does not make the statute void for vagueness when a defendant's conduct falls within the core of the statute. *See id.*

In this case, there is no doubt that Blarek and Pellecchia were aware that the cash they received from Santacruz was "criminally derived property" from drug dealing. It is also clear

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[1] Since we conclude that the RICO conspiracy conviction was supported by sufficient evidence, Appellants' claim of prejudicial spillover is without merit.

that the term "criminally derived property" covers money earned from drug trafficking and then directly provided to a defendant by a drug trafficker. As a result, the Appellants cannot argue that § 1957(a) failed to provide adequate notice to them. Their void-for-vagueness challenge to § 1957(a) is, therefore, without merit.

Third, the Appellants contend that they did not violate the Travel Act, 18 U.S.C. § 1952(a)(1), either as a predicate act for RICO conspiracy, or, in Blarek's case, also as a separate offense. Section 1952(a) states, in pertinent part: "Whoever travels in interstate or foreign commerce . . . with intent to . . . distribute the proceeds of any unlawful activity" is guilty of a violation. Appellants again argue that they were only shopping for Santacruz and not distributing the proceeds of unlawful activity. This claim is without merit. As we noted earlier, Blarek and Pellecchia did not just shop and haggle for Santacruz. They, in fact, engaged in a systematic effort to assist the Santacruz enterprise by turning large sums of tainted cash into chattels that the drug lord could safely enjoy. We find that there was sufficient evidence to support the jury's finding that Blarek and Pellecchia distributed the proceeds of unlawful activity in violation of § 1952(a)(1).

Finally, the Appellants contend that the district court erred by admitting certain false statements they made on their tax returns into evidence. As the district court explained to the jury, the tax return statements were offered "solely in support of [the government's] claim that there was cash involved and that this was the way of covering up the cash that they were receiving." We find no error in the admission of this evidence.

We have considered all of Blarek and Pellecchia's arguments and find them to be without merit. The judgment of the district court is therefore affirmed.

18 U.S.C. § 1962. Prohibited activities

(a) It shall be unlawful for any person who has received any income derived, directly or indirectly, from a pattern of racketeering activity or through collection of an unlawful debt in which such person has participated as a principal within the meaning of section 2, title 18, United States Code, to use or invest, directly or indirectly, any part of such income, or the proceeds of such income, in acquisition of any interest in, or the establishment or operation of, any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce. A purchase of securities on the open market for purposes of investment, and without the intention of controlling or participating in the control of the issuer, or of assisting another to do so, shall not be unlawful under this subsection if the securities of the issuer held by the purchaser, the members of his immediate family, and his or their accomplices in any pattern or racketeering activity or the collection of an unlawful debt after such purchase do not amount in the aggregate to one percent of the outstanding securities of any one class, and do not confer, either in law or in fact, the power to elect one or more directors of the issuer.

(b) It shall be unlawful for any person through a pattern of racketeering activity or through collection of an unlawful debt to acquire or maintain, directly or indirectly, any interest in or control of any enterprise which is engaged in, or the activities of which affect, interstate or foreign commerce.

(c) It shall be unlawful for any person employed by or associated with any enterprise engaged in, or the activities of which affect, interstate or foreign commerce, to conduct or participate, directly or indirectly, in the conduct of such enterprise's affairs through a pattern of racketeering activity or collection of unlawful debt.

(d) It shall be unlawful for any person to conspire to violate any of the provisions of subsection (a), (b), or (c) of this section.

18 U.S.C. § 1952. Interstate and foreign travel or transportation in aid of racketeering enterprises

(a) Whoever travels in interstate or foreign commerce or uses the mail or any facility in interstate or foreign commerce, with intent to--

(1) distribute the proceeds of any unlawful activity; or

(2) commit any crime of violence to further any unlawful activity; or

(3) otherwise promote, manage, establish, carry on, or facilitate the promotion, management, establishment, or carrying on, of any unlawful activity,

and thereafter performs or attempts to perform--

(A) an act described in paragraph (1) or (3) shall be fined under this title, imprisoned not more than 5 years, or both; or

(B) an act described in paragraph (2) shall be fined under this title, imprisoned for not more than 20 years, or both, and if death results shall be imprisoned for any term of years or for life.

(b) As used in this section (i) "unlawful activity" means (1) any business enterprise involving gambling, liquor on which the Federal excise tax has not been paid, narcotics or controlled substances (as defined in section 102(6) of the Controlled Substances Act), or prostitution offenses in violation of the laws of the State in which they are committed or of the United States, (2) extortion, bribery, or arson in violation of the laws of the State in which committed or of the United States, or (3) any act

which is indictable under subchapter II of chapter 53 of title 31, United States Code, or under section 1956 or 1957 of this title and (ii) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(c) Investigations of violations under this section involving liquor shall be conducted under the supervision of the Secretary of the Treasury.

18 U.S.C. § 1956. Laundering of monetary instruments

(a)(1) Whoever, knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity, conducts or attempts to conduct such a financial transaction which in fact involves the proceeds of specified unlawful activity--

(A)(i) with the intent to promote the carrying on of specified unlawful activity; or

(ii) with intent to engage in conduct constituting a violation of section 7201 or 7206 of the Internal Revenue Code of 1986; or

(B) knowing that the transaction is designed in whole or in part--

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the property involved in the transaction, whichever

is greater, or imprisonment for not more than twenty years, or both.

(2) Whoever transports, transmits, or transfers, or attempts to transport, transmit, or transfer a monetary instrument or funds from a place in the United States to or through a place outside the United States or to a place in the United States from or through a place outside the United States--

(A) with the intent to promote the carrying on of specified unlawful activity; or

(B) knowing that the monetary instrument or funds involved in the transportation, transmission, or transfer represent the proceeds of some form of unlawful activity and knowing that such transportation, transmission, or transfer is designed in whole or in part--

(i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or

(ii) to avoid a transaction reporting requirement under State or Federal law,

shall be sentenced to a fine of not more than $500,000 or twice the value of the monetary instrument or funds involved in the transportation, transmission, or transfer whichever is greater, or imprisonment for not more than twenty years, or both. For the purpose of the offense described in subparagraph (B), the defendant's knowledge may be established by proof that a law enforcement officer represented the matter specified in subparagraph (B) as true, and the defendant's subsequent statemen or actions indicate that the defendant believed such representations to be true.

(3) Whoever, with the intent--

(A) to promote the carrying on of specified unlawful activity;

(B) to conceal or disguise the nature, location, source, ownership, or control of property believed to be the proceeds of specified unlawful activity; or

(C) to avoid a transaction reporting requirement under State or Federal law,

conducts or attempts to conduct a financial transaction involving property represented to be the proceeds of specified unlawful activity, or property used to conduct or facilitate specified unlawful activity, shall be fined under this title or imprisoned for not more than 20 years, or both. For purposes of this paragraph and paragraph (2), the term "represented" means any representation made by a law enforcement officer or by another person at the direction of, or with the approval of, a Federal official authorized to investigate or prosecute violations of this section.

(b) Whoever conducts or attempts to conduct a transaction described in subsection (a)(1) or (a)(3), or a transportation, transmission, or transfer described in subsection (a)(2), is liable to the United States for a civil penalty of not more than the greater of--

(1) the value of the property, funds, or monetary instruments involved in the transaction; or

(2) $10,000.

(c) As used in this section--

(1) the term "knowing that the property involved in a financial transaction represents the proceeds of some form of unlawful activity" means that the person knew the property involved in the transaction represented proceeds from some form, though not necessarily which form, of activity that constitutes a felony under State, Federal, or foreign law, regardless of whether or not such activity is specified in paragraph (7);

(2) the term "conducts" includes initiating, concluding, or participating in initiating, or concluding a transaction;

(3) the term "transaction" includes a purchase, sale, loan, pledge, gift, transfer, delivery, or other disposition, and with respect to a financial institution includes a deposit, withdrawal, transfer between accounts, exchange of currency, loan, extension of credit, purchase or sale of any stock, bond, certificate of deposit, or other monetary instrument, use of a safe deposit box, or any other payment, transfer, or delivery by, through, or to a financial institution, by whatever means effected;

(4) the term "financial transaction" means (A) a transaction which in any way or degree affects interstate or foreign commerce (i) involving the movement of funds by wire or other means or (ii) involving one or more monetary instruments, or (iii) involving the transfer of title to any real property, vehicle, vessel, or aircraft, or (B) a transaction involving the use of a financial institution which is engaged in, or the activities of which affect, interstate or foreign commerce in any way or degree;

(5) the term "monetary instruments" means (i) coin or currency of the United States or of any other country, travelers' checks, personal checks, bank checks, and money orders, or (ii) investment securities or negotiable instruments, in bearer form or otherwise in such form that title thereto passes upon delivery;

(6) the term "financial institution" has the definition given that term in section 5312(a)(2) of title 31, United States Code, or the regulations promulgated thereunder;

(7) the term "specified unlawful activity" means--

(A) any act or activity constituting an offense listed in section 1961(1) of this title except an act which is indictable under subchapter II of chapter 53 of title 31;

(B) with respect to a financial transaction occurring in whole or in part in the United States, an offense against a foreign nation involving--

(i) the manufacture, importation, sale, or distribution of a controlled substance (as such term is defined for the purposes of the Controlled Substances Act);

(ii) murder, kidnapping, robbery, extortion, or destruction of property by means of explosive or fire;

(iii) fraud, or any scheme or attempt to defraud, by or against a foreign bank (as defined in paragraph 7 of section 1(b) of the International Banking Act of 1978 [FN1];

(C) any act or acts constituting a continuing criminal enterprise, as that term is defined in section 408 of the Controlled Substances Act (21 U.S.C. 848);

(D) an offense under section 32 (relating to the destruction of aircraft), section 37 (relating to violence at international airports), section 115 (relating to influencing, impeding, or retaliating against a Federal official by threatening or injuring a family member), section 152 (relating to concealment of assets; false oaths and claims; bribery), section 215 (relating to commissions or gifts for procuring loans), section 351 (relating

to congressional or Cabinet officer assassination), any of sections 500 through 503 (relating to certain counterfeiting offenses), section 513 (relating to securities of States and private entities), section 542 (relating to entry of goods by means of false statements), section 545 (relating to smuggling goods into the United States), section 549 (relating to removing goods from Customs custody), section 641 (relating to public money, property, or records), section 656 (relating to theft, embezzlement, or misapplication by bank officer or employee), section 657 (relating to lending, credit, and insurance institutions), section 658 (relating to property mortgaged or pledged to farm credit agencies), section 666 (relating to theft or bribery concerning programs receiving Federal funds), section 793, 794, or 798 (relating to espionage), section 831 (relating to prohibited transactions involving nuclear materials), section 844(f) or (i) (relating to destruction by explosives or fire of Government property or property affecting interstate or foreign commerce), section 875 (relating to interstate communications), section 956 (relating to conspiracy to kill, kidnap, maim, or injure certain property in a foreign country), section 1005 (relating to fraudulent bank entries), 1006 (relating to fraudulent Federal credit institution entries), 1007 (relating to fraudulent Federal Deposit Insurance transactions), 1014 (relating to fraudulent loan or credit applications), 1032 (relating to concealment of assets from conservator, receiver, or liquidating agent of financial institution), section 1111 (relating to murder), section 1114 (relating to murder of United States law enforcement officials), section 1116 (relating to murder of foreign officials, official guests, or internationally protected persons), section 1201 (relating to kidnapping), section 1203 (relating to hostage taking), section 1361 (relating to willful injury of Government property), section 1363 (relating to destruction of property within the special maritime and territorial jurisdiction), section 1708 (theft from the mail), section 1751 (relating to Presidential assassination), section 2113 or 2114 (relating to bank and postal robbery and theft), section 2280

(relating to violence against maritime navigation), section 2281 (relating to violence against maritime fixed platforms), section 2319 (relating to copyright infringement), section 2320 (relating to trafficking in counterfeit goods and services), section 2332 (relating to terrorist acts abroad against United States nationals), section 2332a (relating to use of weapons of mass destruction), section 2332b (relating to international terrorist acts transcending national boundaries), or section 2339A (relating to providing material support to terrorists) of this title, section 46502 of title 49, United States Code,, [FN2] a felony violation of the Chemical Diversion and Trafficking Act of 1988 (relating to precursor and essential chemicals), section 590 of the Tariff Act of 1930 (19 U.S.C. 1590) (relating to aviation smuggling), secti 422 of the Controlled Substances Act (relating to transportation of drug paraphernalia), section 38(c) (relating to criminal violations) of the Arms Export Control Act, section 11 (relating to violations) of the Export Administration Act of 1979, section 206 (relating to penalties) of the International Emergency Economic Powers Act, section 16 (relating to offenses and punishment) of the Trading with the Enemy Act, any felony violation of section 15 of the Food Stamp Act of 1977 (relating to food stamp fraud) involving a quantity of coupons having a value of not less than $5,000, or any felony violation of the Foreign Corrupt Practices Act; or

(E) a felony violation of the Federal Water Pollution Control Act (33 U.S.C. 1251 et seq.), the Ocean Dumping Act (33 U.S.C. 1401 et seq.), the Act to Prevent Pollution from Ships (33 U.S.C. 1901 et seq.), the Safe Drinking Water Act (42 U.S.C. 300f et seq.), or the Resources Conservation and Recovery Act (42 U.S.C. 6901 et seq.).

(F) Any act or activity constituting an offense involving a Federal health care offense.

(8) the term "State" includes a State of the United States, the District of Columbia, and any commonwealth, territory, or possession of the United States.

(d) Nothing in this section shall supersede any provision of Federal, State, or other law imposing criminal penalties or affording civil remedies in addition to those provided for in this section.

(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General. Violations of this section involving offenses described in paragraph (c)(7)(E) may be investigated by such components of the Department of Justice as the Attorney General may direct, and the National Enforcement Investigations Center of the Environmental Protection Agency.

(f) There is extraterritorial jurisdiction over the conduct prohibited by this section if--

(1) the conduct is by a United States citizen or, in the case of a non-United States citizen, the conduct occurs in part in the United States; and

(2) the transaction or series of related transactions involves funds or monetary instruments of a value exceeding $10,000.

(g) Notice of conviction of financial institutions.--If any financial institution or any officer, director, or employee of any financial institution has been found guilty of an offense under this section, section 1957 or 1960 of this title, or section 5322 or 5324 of title 31, the Attorney General shall provide written notice of such fact to the appropriate regulatory agency for the financial institution.

(h) Any person who conspires to commit any offense defined in this section or section 1957 shall be subject to the same penalties as those prescribed for the offense the commission of which was the object of the conspiracy.

18 U.S.C. § 1957. Engaging in monetary transactions in property derived from specified unlawful activity

(a) Whoever, in any of the circumstances set forth in subsection (d), knowingly engages or attempts to engage in a monetary transaction in criminally derived property that is of a value greater than $10,000 and is derived from specified unlawful activity, shall be punished as provided in subsection (b).

(b)(1) Except as provided in paragraph (2), the punishment for an offense under this section is a fine under title 18, United States Code, or imprisonment for not more than ten years or both.

(2) The court may impose an alternate fine to that imposable under paragraph (1) of not more than twice the amount of the criminally derived property involved in the transaction.

(c) In a prosecution for an offense under this section, the Government is not required to prove the defendant knew that the offense from which the criminally derived property was derived was specified unlawful activity.

(d) The circumstances referred to in subsection (a) are--

(1) that the offense under this section takes place in the United States or in the special maritime and territorial jurisdiction of the United States; or

(2) that the offense under this section takes place outside the United States and such special jurisdiction, but the defendant is a United States person (as defined in section 3077 of this title, but excluding the class described in paragraph (2)(D) of such section).

(e) Violations of this section may be investigated by such components of the Department of Justice as the Attorney General may direct, and by such components of the Department of the Treasury as the Secretary of the Treasury may direct, as appropriate and, with respect to offenses over which the United States Postal Service has jurisdiction, by the Postal Service. Such authority of the Secretary of the Treasury and the Postal Service shall be exercised in accordance with an agreement which shall be entered into by the Secretary of the Treasury, the Postal Service, and the Attorney General.

(f) As used in this section--

(1) the term "monetary transaction" means the deposit, withdrawal, transfer, or exchange, in or affecting interstate or foreign commerce, of funds or a monetary instrument (as defined in section 1956(c)(5) of this title) by, through, or to a financial institution (as defined in section 1956 of this title), including any transaction that would be a financial transaction under section 1956(c)(4)(B) of this title, but such term does not include any transaction necessary to preserve a person's right to representation as guaranteed by the sixth amendment to the Constitution;

(2) the term "criminally derived property" means any property constituting, or derived from, proceeds obtained from a criminal offense; and

(3) the term "specified unlawful activity" has the meaning given that term in section 1956 of this title.